

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 J Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 Attorneys for Complainant

8 BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against:

Case No. AR 2008-455

12 SANDRA MARY SEVERIN,
a.k.a. SANDRA M. SEVERIN,
13 a.k.a. SANDRA MARY ELLENBECKER
1664 Camilla Lane, SW 27-102
14 Tumwater, WA 98512

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Heather Martin ("Complainant") brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the California Board of Occupational Therapy ("Board"),
21 Department of Consumer Affairs.

22 2. On or about June 4, 2009, the Board received an application for an occupational
23 therapy assistant certificate from Sandra Mary Severin, also known as Sandra M. Severin and
24 Sandra Mary Ellenbecker ("Respondent"). On or about May 31, 2009, Respondent certified
25 under penalty of perjury that all of the information contained in the application was true and
26 correct. Respondent also acknowledged that falsification or misrepresentation of any item or
27 response on the application or any attachment thereto was sufficient grounds for denial,

28 ///

1 suspension, or revocation of a license (certificate) to practice as an occupational therapy assistant
2 in the State of California. The Board denied the application on September 24, 2009.

3 STATUTORY PROVISIONS

4 3. Business and Professions Code ("Code") section 2570.26, subdivision (a), states that
5 "[t]he board may, after a hearing, deny, suspend, revoke, or place on probation a license,
6 certificate, inactive license, inactive certificate, or limited permit".

7 4. Code section 2570.27, subdivision (b), states that "[t]he board may issue an initial
8 license on probation, with specific terms and conditions, to any applicant who has violated any
9 provision of this chapter or the regulations adopted pursuant to it, but who has met all other
10 requirements for licensure."

11 5. Code section 2570.28 states, in pertinent part:

12 The board may deny or discipline a licensee for any of the following:

13 (a) Unprofessional conduct . . .

14 . . .

15 (d) Making or giving any false statement or information in connection
16 with the application for issuance or renewal of a license.

17 (e) Conviction of a crime or of any offense substantially related to the
18 qualifications, functions, or duties of a licensee, in which event the record of the
19 conviction shall be conclusive evidence thereof.

20 . . .

21 (h) Committing any fraudulent, dishonest, or corrupt act that is
22 substantially related to the qualifications, functions, or duties of a licensee . . .

23 6. Code section 2570.29 states, in pertinent part:

24 In addition to other acts constituting unprofessional conduct within the
25 meaning of this chapter, it is unprofessional conduct for a person licensed under this
26 chapter to do any of the following:

27 . . .

28 (b) Use to an extent or in a manner dangerous or injurious to himself or
herself, to any other person, or to the public, or that impairs his or her ability to
conduct with safety to the public the practice authorized by his or her license, of any
of the following:

(3) Alcoholic beverages.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

7. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal; or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3)(A) Done any act that if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

8. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

///

///

///

///

///

///

///

FIRST CAUSE FOR DENIAL

(Criminal Convictions)

9. Respondent's application for an occupational therapy assistant certificate is subject to denial pursuant to Code sections 2570.28, subdivision (c), 480, subdivision (a)(1), and 480, subdivision (a)(3)(A), in that Respondent was convicted of crimes which are substantially related to the qualifications, functions, or duties of an occupational therapy assistant, as follows:

a. On or about April 23, 1996, in the criminal proceeding titled *State of Minnesota v. Sandra Mary Ellenbecker* (Dist. Ct. Washington County, 1996, Case No. KX-96-677),

Respondent pled guilty to violating Minnesota Statute 609.72, subdivisions (1) and (3) (disorderly conduct: engaging in a brawl or fight in a public or private place involving offensive, obscene, abusive, boisterous, or noisy conduct, etc., a misdemeanor). The circumstances of the crime are that in or about 1996, Respondent and her former husband were involved in an argument after consuming alcohol.

b. On or about September 24, 2003, in the criminal proceeding titled *State of Wisconsin v. Sandra Mary Severin* (Muni. Ct. North Hudson, 2003, No. E087308-4), Respondent pled no contest to violating Ordinance No. 90-1, adopting State Statute No. 346.63(1)(a) (operating a motor vehicle while under the influence). The circumstances of the crime are as follows: On or about August 31, 2003, an officer with the North Hudson Police Department was driving eastbound on Sommers Street North in North Hudson, Wisconsin, when he noticed the vehicle in front of him abruptly stop in the intersection with 8th Street North. The vehicle then turned left, without signaling, and drove northbound on 8th Street North. The officer stopped the vehicle and made contact with Respondent. The officer noticed that Respondent had an odor of intoxicating beverages on her breath, her speech was slurred, and her eyes were red. Respondent admitted to the officer that she had consumed at least two rum and Cokes. Respondent underwent field sobriety tests, which she failed, and submitted to a preliminary breath test. Respondent was determined to have a breath alcohol content of .158 percent. Based on his observations, the officer placed Respondent under arrest for operating a motor vehicle while under the influence. On or about November 21, 2003, Respondent's driver's license was revoked for six months.

c. On or about November 13, 2006, in the criminal proceeding titled *State of Minnesota v. Sandra Mary Severin* (Dist. Ct. Washington County, 2006, Case No. K4-06-497), Respondent pled guilty to violating Minnesota Statutes 169A.20, subdivision 1(1), and 169A.25.2 (gross misdemeanor 2nd degree driving under the influence of alcohol). The circumstances of the crime are as follows: On or about January 22, 2006, Respondent drove a motor vehicle while under the influence of alcohol with a blood alcohol content of .23 percent and within 10 years of a prior alcohol related conviction/revocation.

SECOND CAUSE FOR DENIAL

(Use of Alcoholic Beverages to an Extent or in a Manner
Dangerous or Injurious to Oneself and Others)

10. Respondent's application for an occupational therapy assistant certificate is subject to denial pursuant to Code sections 480, subdivision (a)(3)(A), and 2570.28, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2570.29, subdivision (b)(3), in that in or about 1996 and on or about August 31, 2003, and January 22, 2006, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself and others, as set forth in paragraph 9 above.

THIRD CAUSE FOR DENIAL

(Convictions of Criminal Offenses Involving
Consumption of Alcoholic Beverages)

11. Respondent's application for an occupational therapy assistant certificate is subject to denial pursuant to Code sections 480, subdivision (a)(3)(A), and 2570.28, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2570.29, subdivision (c), as follows: On or about September 24, 2003, and November 13, 2006, Respondent was convicted of criminal offenses involving the consumption of alcoholic beverages, as set forth in subparagraphs 9 (b) and (c) above.

///

///

///

FOURTE CAUSE FOR DENIAL

(False Statement on Respondent's Application for
Certification as an Occupational Therapy Assistant)

12. Question E of Section VI: Disciplinary Actions and Criminal History Data on
Respondent's application for certification as an occupational therapy assistant states, in part, as
follows:

Have you been convicted of any crime (misdemeanor or felony)? . . . You
must disclose any conviction, no matter how old. The only exceptions are:
convictions occurring under the age of 18 . . . and traffic violations resulting in a fine
of less than \$500. All driving under the influence convictions must be disclosed
regardless of the fine imposed. The definition of conviction includes a conviction
following a plea of nolo contendere (no contest), as well as a plea or verdict of guilty.
Convictions expunged under Penal Code section 1203.4 must be disclosed.

13. Respondent's application for an occupational therapy assistant certificate is subject to
denial pursuant to Code sections 480, subdivision (c), and 2570.28, subdivision (d), in that
Respondent made or gave a false statement or information in connection with her application, as
follows: Respondent certified under penalty of perjury in her response to question E that she was
convicted of driving under the influence of alcohol (DUI) on January 22, 2006, as set forth in
subparagraph 9 (c) above, but concealed the fact that she had been convicted of an earlier DUI on
September 24, 2003, and of disorderly conduct in 1996, as set forth in subparagraphs 9 (a) and (b)
above.

FIFTE CAUSE FOR DENIAL

(Fraudulent, Dishonest, or Corrupt Acts)

14. Complainant incorporates by reference as though fully set forth herein the allegations
contained in paragraph 12 above.

15. Respondent's application for an occupational therapy assistant certificate is subject to
denial pursuant to Code sections 2570.28, subdivision (h), and 480, subdivision (a)(3), in that
Respondent committed a fraudulent, dishonest, or corrupt act that is substantially related to the
qualifications, functions, or duties of an occupational therapy assistant, as set forth in paragraph
13 above.

///

SIXTH CAUSE FOR DENIAL

(Dishonesty, Fraud or Deceit)

16. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraph 12 above.

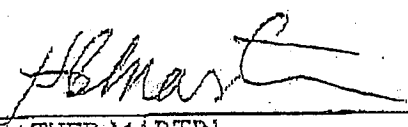
17. Respondent's application for an occupational therapy assistant certificate is subject to denial pursuant to Code section 480, subdivision (a)(2), in that Respondent committed an act involving dishonesty, fraud, or deceit with the intent to substantially benefit herself or another, or substantially injure another, as set forth in paragraph 13 above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Occupational Therapy issue a decision:

1. Denying the application of Sandra Mary Severin, also known as Sandra M. Severin and Sandra Mary Ellenbecker, for an occupational therapy assistant certificate;
2. Taking such other and further action as deemed necessary and proper.

DATED: November 18, 2009


HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant